

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 9, filed 11/05/2009, stating that the combined reference fails to disclose that a luminophore from a biological or chemical medium excitation medium contained in an excitation reservoir reacts with a metabolic product of a cell during the excitation thereof to thereby provide the luminescence signal to be detected respect to claims 1, 18 and 22 have been fully considered and are persuasive. Therefore the rejections of claim 1 and its dependent claims, claim 18 and its dependent claims and claim 22 have been withdrawn.

Response to Amendment

2. The amendment filed on 11/05/2009 has been entered and acknowledged by the examiner.

Allowable Subject Matter

3. Claims 1-15 and 18-22 are allowed.

4. The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 18, 22 and their dependent claims, the prior art alone or in combination fails to disclose/suggest that a device for detecting a cellular metabolic process associated with a cell by detecting a luminescence event comprising a reservoir

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containing a biological or chemical excitation medium that includes a luminophore where the excitation medium influences the metabolism of the cell during excitation and wherein the luminophore reacts with a metabolic product of the cell during excitation thereof to thereby provide the luminescence signal to be detected.

The closest related prior art to the applicant claimed invention is Duveneck (US 6,469,785).

Duveneck disclose a device for detecting a luminescence event comprising: having (a) a carrier element (76) with a surface (7) prepared for direct or indirect coupling of cells, (b) at least one optical detector (detection unit 4 in the form of a photodiode) for receiving a luminescence signal, integrated into the carrier element below surface, (c) a cover (2) covering surface to form a cavity(68), said cover having an inlet opening(64) and an outlet opening(66). see Duveneck fig 1 and 8 , col. 5 lines 13 – 27, 53 –58 line65 – col. 6 line 14, col. 6 lines 48 – lines 67; col. 7 lines 5 -12, col. 8 lines 26 – 38, col. 17 lines 59 – 67, col. 19 lines 25 –59 , col. 21 lines 10 – 14, lines 42 – 56 and col. 22 lines 15 –20) However, Duveneck fails to disclose a reservoir containing a biological or chemical excitation medium that includes a luminophore where the excitation medium influences the metabolism of the cell during excitation and wherein the luminophore reacts with a metabolic product of the cell during excitation thereof to thereby provide the luminescence signal to be detected.

The prior art alone or in combination fails to disclose the applicant's claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTA G. DOE whose telephone number is (571)270-3152. The examiner can normally be reached on Mon-Fri 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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GSD

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797